

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON

PENNY KENNEDY, and  
RAYMOND KENNEDY, individually  
and as guardians and next  
friends of  
TREVOR KENNEDY, an infant  
under the age of eighteen,

Plaintiffs

v.

CIVIL ACTION NO. 2:03-0175

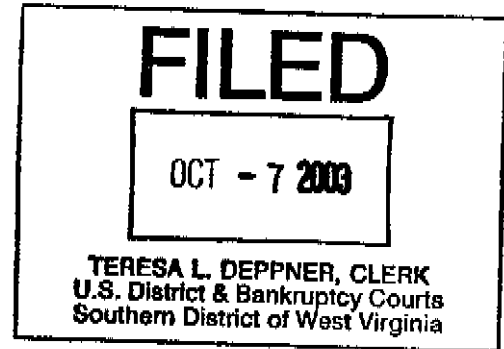
UNITED STATES OF AMERICA;  
CHARLESTON AREA MEDICAL CENTER, INC.  
dba Women and Children's Hospital of West Virginia  
dba Women and Children's Hospital  
dba CAMC Children's Hospital  
dba Women and Children's Hospital;  
INPHYNET HOSPITAL SERVICES, INC.,  
a foreign corporation, doing business  
in the State of West Virginia; and  
GORDON J. GREEN, Dr., individually,

Defendants.

**MOTION FOR LEAVE TO FILE RULE 26(a)(1) DISCLOSURES  
BEYOND THE DEADLINE SET BY THE COURT**

Comes now defendant, Charleston Area Medical Center, Inc. ("CAMC") and  
moves this Court for an Order granting CAMC leave to file its Rule 26(a)(1)  
disclosures beyond the deadline set by the Court and to accept the disclosures tendered  
on this date. In support of its Motion, defendant states as follows:

1. On October 3, 2003, CAMC mailed its Rule 26(a)(1) disclosures to all  
counsel of record. Unfortunately, due to a clerical error, the original disclosures,  
although properly addressed, apparently were placed in the envelope addressed to the  
Assistant United States Attorney instead of the Clerk of the United States District Court



for the Southern District of West Virginia. See letter to Mr. Kay, attached as Exhibit A.

2. CAMC did not learn of this error until this morning when the Assistant United States Attorney returned the original disclosures to it. See letter from Mr. Horn, attached as Exhibit B.

3. Upon information and belief, CAMC asserts that all of the parties to the litigation received a copy of the disclosures in compliance with the Court's Order; therefore, no party was prejudiced by this human error. Moreover, CAMC's tender of said disclosures is only one day beyond the mandated deadline. CAMC asserts that good cause has been shown for the extension it requests in that the error was recognized and corrected as soon as possible and no party was prejudiced thereby.

WHEREFORE, Charleston Area Medical Center, Inc. moves this Court for an Order allowing it to file its Rule 26(a)(1) disclosures beyond the deadline set by the Court and to accept as filed the Rule 26(a)(1) disclosures tendered at this same time as this Motion.

CHARLESTON AREA MEDICAL CENTER, INC.  
INDIVIDUALLY AND D/B/A WOMEN AND  
CHILDREN'S HOSPITAL, D/B/A CAMC  
CHILDREN'S HOSPITAL, D/B/A CAMC WOMEN'S  
HOSPITAL, AND D/B/A CAMC WOMEN AND  
CHILDREN'S HOSPITAL  
BY COUNSEL,



Cheryl A. Eifert, Esq. (#1111)

Dina M. Mohler, Esq. (#2590)

**CHARLESTON AREA MEDICAL CENTER, INC.**

Office of the General Counsel

P. O. Box 3669

Charleston, West Virginia 25336

(304) 388-7532

CERTIFICATE OF SERVICE

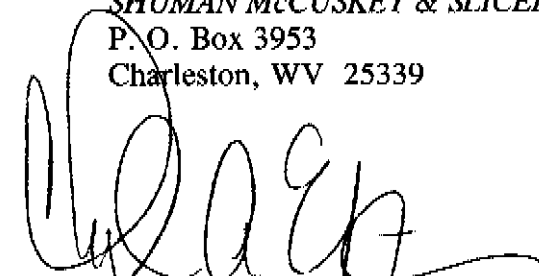
I, Cheryl A. Eifert, counsel for defendant Charleston Area Medical Center, Inc. do hereby certify that I have served a true and accurate copy of the attached *Motion for Leave to File Rule 26(a)(1) Disclosures Beyond the Deadline Set by the Court* upon the following by placing same within the United States Mail, postage prepaid on this 7th day of October, 2003:

Pamela A. Lambert, Esq. (#2128)  
*LAMBERT AND NEW*  
P. O. Drawer 926  
Gilbert, WV 25621

Scott S. Segal, Esq. (#4717)  
Samuel A. Hrko, Esq. (#7727)  
*THE SEGAL LAW FIRM*  
810 Kanawha Boulevard, East  
Charleston, WV 25301

David L. Shuman, Esq. (#3389)  
Karen Tracy McElhinny (#7517)  
*SHUMAN McCUSKEY & SLICER*  
P. O. Box 3953  
Charleston, WV 25339

Stephen M. Horn, Esq. (#1788)  
Assistant United States attorney  
P. O. Box 1713  
Charleston, WV 25326



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Cheryl A. Eifert, Esq. (#1111)  
Dina M. Mohler, Esq. (#2590)  
*CHARLESTON AREA MEDICAL CENTER, INC.*  
Office of the General Counsel  
P. O. Box 3669  
Charleston, West Virginia 25336  
(304) 388-7532



**Charleston Area  
Medical Center** CHARLESTON, WV

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U.S. ATTORNEY

Office of the General Counsel

501 Morris Street  
Post Office Box 3669  
Charleston, West Virginia 25336  
Fax: (304) 388-6027

October 3, 2003

Samuel L. Kay, Clerk  
Southern District of West Virginia  
P. O. Box 1713  
Charleston, WV 25326

Re: Kennedy v. Charleston Area Medical Center, Inc., et al.  
Civil Action No. 2:03-0175

Dear Mr. Kay:

Enclosed please find the *Charleston Area Medical Center, Inc.'s Rule 26 (a) (1) Disclosures* in the above-referenced matter. Your assistance in filing this document is appreciated.

Yours truly,



Cheryl A. Eifert  
Associate General Counsel

CAE/bg

Enclosures

cc: Counsel of Record



U.S. Department of Justice

United States Attorney  
Southern District of West Virginia

United States Courthouse  
300 Virginia Street, East, Room 4000  
Charleston, WV 25301  
FAX: (304) 347-3443

Mailing Address  
Post Office Box 1713  
Charleston, WV 25326  
(304) 345-2200  
1-800-659-8726

October 6, 2003

Cheryl Eifert, Esquire  
Associate General Counsel  
Office of the General Counsel  
Charleston Area Medical Center  
501 Morris Street  
P.O. Box 3669  
Charleston, WV 25336

Re: Penny Kennedy, et al. v. United States, et al.  
Civil Action No. 2:03-0175

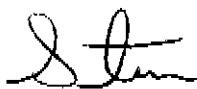
Dear Cheryl:

I received in error the original Rule 26(a)(1) Disclosures which I am returning to you.

Sincerely yours,

KASEY WARNER  
United States Attorney

By:

  
STEPHEN M. HORN  
Assistant United States Attorney

SMH/cgb

Enclosure

